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2 UNITED STATES DISTRICT COURT  
3 FOR THE WESTERN DISTRICT OF VIRGINIA  
4

5 UNITED STATES,

No.: 5:21-cr-00023-EKD-JCH

7 v.

8 RICHARD MOORE  
9  
10  
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12 **DEFENDANT RICHARD MOORES 'S MOTION TO WITHDRAW COUNSEL**  
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14 Defendant Richard Moore hereby moves, by and through counsel, pursuant to L.R. 6(i) and  
15 Rule 1.7(a) of the Rules of Professional Conduct of the State Bar of Virginia. In support of his  
16 Motion Mr. Moore states the following:  
17

- 18 1. The Fourth Circuit has recognized that “[a] criminal defendant's Sixth Amendment right to  
19 effective assistance of counsel includes a right to counsel unhindered by conflicts of  
20 interest.” *Mickens v. Taylor*, 240 F.3d 348, 355 (4th Cir. 2001) (citation omitted). As a  
21 result, “trial courts have an obligation to inquire into potential conflicts of interest when  
22 they know or reasonably should know of a particular conflict.” *Id.* at 358 (citing *Wood v.*  
23 *Georgia*, 450 U.S. 261, 272-73 (1981)).  
24  
25 2. Further, this Circuit recognizes that in discharging this duty, courts should consider  
26 defense counsel raising conflicts “particularly persuasive” because: “(1) defense counsel  
27 is in the best position to evaluate his [or her] potential conflicts of interest; (2) defense  
28

1 attorneys are obligated to inform the court of conflicts of interest; and (3) attorneys are  
2 officers of the court whose declarations to the court are ‘virtually made under oath.’ ” *Id.*  
3 at 357 (quoting *Holloway v. Arkansas*, 435 U.S. 475, 485–86 (1978)).  
4

- 5 3. After entering the instant matter, on November 21, 2023, local counsel Amina Matheny  
6 Willard and *pro hac vice* counsel (collectively “Counsel”) were informed of the possibility  
7 of a conflict of interest. Unfortunately, after further investigation—also, promptly  
8 undertaken—it was discovered that this conflict was a “concurrent conflict” under the  
9 Rules of Professional Conduct.  
10
- 11 4. In terms of the conflict, Attorney Song has a conflict based on his past and current  
12 representation of Nexus Services which the defendant has not waived. Attorney Matheny  
13 Willard has a conflict based on her prior and current representation of Zachary Cruz. This  
14 conflict is unwaivable.  
15
- 16 5. On the basis of the above facts, a “concurrent conflict” appears that presents grounds for  
17 disqualification under Rule 1.7(a). Where a Court determines that the Virginia Rules of  
18 Professional Conduct allows for or mandates a withdrawal, likewise the District Court  
19 should allow or require a withdrawal. *See Diedrich v. City of Newport News, Virginia*, No.  
20 Civ. A. 4:04CV9, 2004 WL 3436073, at \* 2 (E.D.Va. Nov. 29, 2004) (citing Va. Rules of  
21 Prof’l Conduct R. 1.16 and holding that Court should look to Virginia Rules of  
22 Professional Conduct would allow for withdrawal under the circumstances), *aff’d*, 126  
23 Fed. Appx 112 (4th Cir.2005).  
24
- 25 6. The Virginia Rules of Professional Conduct mandate withdrawal where there is a conflict  
26 of interest or where the representation would otherwise violate the Rules of Professional  
27 Conduct. *See* Va. Rules of Prof’l Conduct R. 1.16(a)(1). The language utilizes mandatory  
28

1 rather than precatory language. *See id.* (“a lawyer *shall not* represent a client or, where  
2 representation has commenced, *shall withdraw* from the representation of a client if. . . the  
3 representation will result in violation of the Rules of Professional Conduct or other  
4 law[.]”) (emphasis added).  
5

6 7. Further, Rule 1.7(a) defines as a concurrent conflict as present when “(1) the  
7 representation of one client will be directly adverse to another client; or (2) there is  
8 significant risk that the representation of one or more clients will be materially limited by  
9 the lawyer's responsibilities to another client, a former client or a third person or by a  
10 personal interest of the lawyer.” Va. Rules of Prof’l Conduct R. 1.7(a).  
11

12 8. Currently, the requirements for the exception in Rule 1.7(b) (allowing waiver of  
13 concurrent conflict where certain conditions are met) do not exist in this case.  
14

15 9. On December 8, 2023, counsel conferred with the government, and they do not oppose  
16 this motion.

17 For the foregoing reasons, undersigned counsel respectfully requests that this Honorable  
18 Court allow undersigned to withdraw from further representation of the Defendant in this matter. A  
19 proposed order is attached.  
20

21 Dated: December 8, 2023  
22

23 Respectfully submitted,

24 /s/ Amina Matheny-Willard, Esq.

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26 VSB #43566

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**CERTIFICATE OF SERVICE**

I certify that on December 8, 2023, I electronically filed the foregoing

DEFENDANT RICHARD E. MOORE'S MOTION TO WITHDRAW COUNSEL with the Clerk  
of the United States District Court for the Western District of Virginia by way of the CM/ECF  
system, which automatically will serve this document on the attorneys of record for the parties in  
this case by electronic mail as follows:

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

UNITED STATES,

v.

RICHARD MOORE.

No.: 5:21-cr-00023-EKD-JCH

**[Proposed] ORDER**

Upon consideration of Defendant Richard Moore's Counsels' Motion to Withdraw as Counsel ("Motion"), and all of the papers submitted in support thereof and opposition thereto:

The Motion is hereby GRANTED. The Court finds that good cause shown, and IT IS HEREBY ORDERED that Michael Song Amina Matheny-Willard, having shown good cause, are withdrawn as counsel for Defendant Richard Moore.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2023.

UNITED STATES DISTRICT COURT JUDGE